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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,953	11/16/2001	Yoshitaka Itoh	039504.99	7957

25944 7590 06/19/2002

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EXAMINER

SPECTOR, DAVID N

ART UNIT	PAPER NUMBER
2873	(#6)

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/987,953

Applicant(s)

ITOH ET AL.

Examiner

David N. Spector

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2001.
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) ^{TRANSFERED} filed on 16 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. PCT/JP97/02189.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3&4.

- 4) ☒ Interview Summary (PTO-413) Paper No(s). 6.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: DETAILED ACTION.

DETAILED ACTION

Defective Reissue Declaration

1. The reissue oath/declaration filed with this application is defective because the error which is relied upon to support the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414. More specifically:
 - (a) The error relied upon to support this application is presented in said declaration as: "claims 19-21 recite a projection display apparatus instead of merely a projector".
 - (b) The examiner finds nothing in U.S. Patent No. 5,986,809 upon which this reissue application is based that makes and/or supports any distinction between the intended meaning and/or the implied scope of the two terms "projection display" apparatus and "projector".
 - (c) The examiner also notes that said terms are very often used synonymously and interchangeably by those skilled in the art to which the aforesaid patent most closely pertains. In fact, applicants' themselves appear to use the aforementioned terms synonymously and interchangeably in their closely-related U.S. Patent No. 6,154,320, wherein an invention disclosed as a "projection display apparatus" in the specification is recited in the claims as a "projector" (col. 6, ln. 58-col. 7, ln. 21 and col. 24, ln. 3-37).
 - (d) Accordingly, the correction of such an error simply appears to constitute an editorial change (e.g. the two terms "projection display apparatus" and "projector"). Applicant is reminded that an error under 35 U.S.C. §251 has not been presented where the

correction to the patent is, *inter alia*, one of spelling, or grammar; or a typographical, editorial or clerical error.

(e) The reissue declaration filed with this application is, therefore, defective.

2. While the reissue oath/declaration filed with this application does contain a statement as to applicant's belief that the original patent is wholly or partly inoperative or invalid, the meaning and/or the validity of the statement therein is not clear to the examiner. In particular, the reissue declaration states: "We consider U.S. Patent No. 5,986,809 to be partly inoperative by reason of claiming less than we had a right to claim because the original claims are unduly limited and may not provide an adequate scope of protection"; (because) "claims 19-21 recite a projection display apparatus instead of merely a projector". Here, the implied scope of "projection display apparatus" clearly appears to be narrower than that of "projector". From the examiner's perspective, however, the reverse appears to be true (e.g. "projection display apparatus" appears to be broader than "projector"). Clarification is therefore requested.

3. Applicant is reminded that matter not present in patent sought to be reissued, is excluded from a reissue application in accordance with 35 U.S.C. 251.

Claim Rejections - 35 U.S.C. §251

4. Claims 1-45 are rejected as being based upon a defective reissue declaration, under 35 U.S.C. 251, as set forth above. See 37 CFR 1.175. The nature of the defect in the reissue declaration is set forth in the discussion above in this Office action.

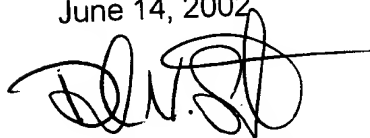
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Remarks/Other Information

5. Applicant is reminded that the original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David N. Spector whose telephone number is (703) 305-1521. The examiner can normally be reached at this number Monday through Friday between 6:00 AM and 2:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps, can be reached on (703) 308-4883. The fax number for the organization where this application is assigned is (703) 308-7722.

June 14, 2002

David N. Spector
Patent Examiner